

42 USCS § 13317 (2005)

§ 13317. Renewable energy production incentive

(a) Incentive payments.

(1) For electric energy generated and sold by a qualified renewable energy facility during the incentive period, the Secretary shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility.

(2) The amount of such payment made to any such owner or operator shall be as determined under subsection (e).

(3) Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment.

(4) (A) Subject to subparagraph (B), if there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities for a fiscal year, the Secretary shall assign--

(i) 60 percent of appropriated funds for the fiscal year to facilities that use solar, wind, ocean (including tidal, wave, current, and thermal), geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity; and

(ii) 40 percent of appropriated funds for the fiscal year to other projects.

(B) After submitting to Congress an explanation of the reasons for the alteration, the Secretary may alter the percentage requirements of subparagraph (A).

(b) Qualified renewable energy facility. For purposes of this section, a qualified renewable energy facility is a facility which is owned by a not-for-profit electric cooperative, a public utility described in *section 115 of the Internal Revenue Code* of 1986 [26 USCS § 115], a State, Commonwealth, territory, or possession of the United States, or the District of Columbia, or a political subdivision thereof, an Indian tribal government or subdivision thereof, or a Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)), and which generates electric energy for sale in, or affecting, interstate commerce using solar, wind, biomass, landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal), or geothermal energy, except that--

(1) the burning of municipal solid waste shall not be treated as using biomass energy; and

(2) geothermal energy shall not include energy produced from a dry steam geothermal reservoir which has--

(A) no mobile liquid in its natural state;

(B) steam quality of 95 percent water; and

(C) an enthalpy for the total produced fluid greater than or equal to 1200 Btu/lb (British thermal units per pound).

(c) Eligibility window. Payments may be made under this section only for electricity generated from a qualified renewable energy facility first used before October 1, 2016.

(d) Payment period. A qualified renewable energy facility may receive payments under this section for a 10-fiscal year period. Such period shall begin with the fiscal year in which electricity gener-

ated from the facility is first eligible for such payments, or in which the Secretary determines that all necessary Federal and State authorizations have been obtained to begin construction of the facility.

(e) Amount of payment.

(1) In general. Incentive payments made by the Secretary under this section to the owner or operator of any qualified renewable energy facility shall be based on the number of kilowatt hours of electricity generated by the facility through the use of solar, wind, biomass, landfill gas, livestock methane, ocean (including tidal, wave, current, and thermal), or geothermal energy during the payment period referred to in subsection (d). For any facility, the amount of such payment shall be 1.5 cents per kilowatt hour, adjusted as provided in paragraph (2).

(2) Adjustments. The amount of the payment made to any person under this subsection as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 1993 in the same manner as provided in the provisions of *section 29(d)(2)(B) of the Internal Revenue Code* of 1986 [26 USCS § 29(d)(2)(B)], except that in applying such provisions the calendar year 1993 shall be substituted for calendar year 1979.

(f) Sunset. No payment may be made under this section to any facility after September 30, 2026, and no payment may be made under this section to any facility after a payment has been made with respect to such facility for a 10-fiscal year period.

(g) Authorization of appropriations. There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2026, to remain available until expended.